

JULY 2019 | ACMS POLICY BRIEF

# REGULARISING LABOUR MIGRATION OF ZIMBABWEAN DOMESTIC WORKERS IN SOUTH AFRICA

**KUDAKWASHE P VANYORO**

African Centre for Migration &amp; Society

## Introduction

The number of Zimbabwean women migrating to South Africa has increased in the post-apartheid years (Crush and Tevera, 2010). Excluded from more closely regulated pursuits, many are employed as domestic workers. Their movements and labour are in principle protected by regional, transnational and national migration protocols and local policies regulating conditions for domestic workers. In practice these offer little: while they are able to sustain their livelihoods, without the necessary freedom to legally establish residence and accrue social security benefits, their employment remains precarious. Without such rights, they are subject to exploitation and economic precarity. At the same time it is important to acknowledge the benefits for Zimbabwean women who do find employment (albeit that for many this employment may be precarious) in South Africa and who are able to sustain a circulatory migration pattern that affords them the means to sustain their households in Zimbabwe or in South Africa.

This policy brief<sup>1</sup> outlines the key findings of the study and the complexities these suggest for advocacy and policy. It makes recommendations for the Department of Labour and Department of Home Affairs to consider in the development of their upcoming Labour Migration Draft Policy Framework. It also makes recommendations to the implementation and monitoring of the SADC Protocol on the Facilitation of Movement of Persons (2005) and the

SADC Portability of Accrued Social Security Benefits Draft Policy Framework (2016). The recommendations emphasise the need to establish an integrated regional approach that streamlines portability of rights, provide for “low-skilled” migrants to move long-term with a pathway towards permanency and offer equal labour protections to migrants. The brief recognises that migrant domestic workers operate alongside local domestic workers and that all domestic workers are impacted by the factors that might privilege one group over the other. It recognises that all domestic workers are operating in informal work and require protection. If these issues facing migrant domestic workers are not addressed, South Africa runs the risk of lowering working conditions and standards across the sector – and thereby exposing all domestic workers to remain subject to exploitation and economic precarity.

A recent study of the migration industry that attends the migration of Zimbabwean female migrants who are domestic workers in Johannesburg was undertaken by the Migrating out of Poverty Research Programme Consortium – an initiative of Sussex University. The South African partner and institution under which the current study was managed is the African Centre for Migration & Society. A total of forty Zimbabwean-born women living in Johannesburg and who are engaged or have in the past six months been engaged in the domestic work sector and sixteen key informants (drawn from civil society – unions, international agencies and migrants rights organisations) were interviewed for this study. The women fell within the age range of 20 to 65 years old, with the majority being under 35.

The findings suggest that women exercise substantial individualism and agency in their migration decisions. No evidence of active recruitment by smugglers, employment recruiters or other formal mediators was found to be a migration motivator. Women may be encouraged to migrate by social networks and these networks may assist in finding them work in the destination city prior to or post arrival. The desperate economic environment in Zimbabwe had prompted many of the women to decide to leave. Most of the interviewees had at least one child and several were financially responsible for other household members as well as for their children. Most of these dependent children were located in Zimbabwe where parents or siblings as well as other family members were responsible for their day-to-day care. Few women had their children with them in South Africa.

The ease of passage for women once they have made the decision rests in a well-defined mobility pathway. A thick social network of facilitators and particularly transport providers, that extends into urban and rural areas of Zimbabwe, provides prospective migrants with ready access to a network of facilitators who can arrange and manage their passage to South Africa.

Irregular migration, and its facilitation on this route, has changed. Irregular migration could be expected to have declined owing to the greater ease with which people can access passports in Zimbabwe and the relaxation of strict visa requirements for travel between Zimbabwe and South Africa. But as other restrictions including the requirement of work permits have been put in place, and given that entry is permitted, but for short periods, a legal traveller may easily slip into being irregular. The majority of women in the sample fell into irregular migration even if their first arrival in South Africa was regular.

The Zimbabwean women interviewed in this study were women who had migrated to South Africa to seek employment and who found such employment in domestic work. By and large they did so by making their own plans, in the absence of a facilitative regulatory environment. These plans relied on highly networked and deeply socially embedded relations. The women’s migration was facilitated by brokers as well as by a network of kin and

non-kin social contacts. Their continued stay in South Africa has been made possible through similarly individualised tactics that tap into social networks and brokers. These are all necessary because the migration regime, despite its apparent leniency for Zimbabwean migrants, continues to exclude many and to render them irregular. There is a need to stabilise the mobility of these labour migrants through the implementation of a rational, facilitated migration regime.

Furthermore the study found that while domestic workers are legally protected, irregular migrants are at high risk of labour exploitation. The poor oversight of labour conditions in the workplace despite the existence of sound regulation protecting domestic workers in South Africa adds a particular local dimension to the precarity of migrant domestic workers.

## The impacts of the current migration regime

The women in this study indicated that their migration challenge was not entering South Africa, but staying in South Africa over the long term. On arrival in the Zimbabwean border town of Beitbridge, potential migrants to South Africa are channelled through either official or unofficial routes (depending on the status of their passports and/or permits) across South Africa's border with Zimbabwe, but the boundary of legality in both routes is often blurred. Following the 2009 introduction of the 90-day visa-free entry system for Zimbabweans, on presentation of a passport, a traveller is granted entry into South Africa for a period up to 90 days, the duration of which is often at the discretion of individual immigration officers within the guidelines set by Immigration Management during particular periods. A traveller might be granted as few as 5 days<sup>2</sup> entry.

Irregular or undocumented migrants may cross the official border post by negotiating their entry with border officials in a process that is popularly known as “border jumping” (Sibanda, 2010). Or they may risk crossing via the Limpopo River, with the help of informal agents (smugglers). Irregular or undocumented migrant domestic workers face multiple bureaucratic challenges to regularise their stay in South Africa. Immigration Regulations of 2005 and 2014 and the White Paper on International Migration (2017)<sup>3</sup> attest to South Africa's hostile immigration environment. Like the apartheid-era Aliens Control Act (1973), these policies use a “two-gate system” to exclude a significant number of migrants by selecting only “highly-skilled” migrants as desirable. This approach has particular gender effects that negatively affect women. Owing to gender disparities between African migrant women and men, migrant domestic workers who are predominantly female are routinely denied the opportunity to acquire the education and resources that would enable them to be viewed as “highly-skilled” according to state definitions (Dodson, 2001). In this way, South Africa's immigration policy regime remains restrictive to “low-skilled migrants” and women such as migrant domestic workers. For the women with formal qualifications acquired prior to or after migration who looked forward to using their formal sector skills and experience in South Africa, the difficulty of finding employment and their inability to meet the strict requirements for permits for skilled workers<sup>4</sup> often meant that they took up domestic work as a stopgap to enable them to earn an income while they seek alternative work outside the domestic work sector.

Many of those that do migrate do so irregularly in order to avoid the restrictive entry requirements. They may move under precarious conditions, relying on “human smugglers” and crossing borders illegally at dangerous points along the Limpopo River. Or they may travel on physically safer routes and access a visitor's permit to enter South Africa. They may then fall into irregular migration (even if their first entry is legal) by overstaying that permit. In order to bypass the expiring of the permit they may resort to the tactic of sending the passport to be stamped

irregularly at the border in a process known colloquially as the sending of a “ghost passport” (Tshabalala, 2017). Women and transport agents interviewed in this study spoke of the high cost and risks associated with the sending of passports. They also spoke of the streamlined informal system that enabled this process which although costly was less expensive and less onerous than that of personally moving back and forth to regularise stay. Women were unable to take the time off work to return to Zimbabwe and re-enter South Africa for renewal of “days”. The commodification of days by border officials, who effectively “sell” them through the exchange of monetary bribes for inscriptions in passports, was highlighted. These irregular channels are the ways in which many low skilled workers can continue to earn a living and maintain their stay in the host country.

Undocumented or irregular as a result, these migrants face difficulties getting work. Private placement agencies (and many private household employers) require that prospective employees be documented. Hence, they have to rely on a thick social network for work placement and the few NGOs and unions to access certain labour protections. The networks’ location and experiences in the labour market such as a history of working in the domestic work sector can be found to have the effect of channelling and facilitating some of the women into domestic work regardless of their intentions or qualifications prior to migration.

At the time of writing this policy brief, the Department of Labour and Department of Home Affairs, in consultation with International Labour Organisation (ILO) South Africa, was drafting a Labour Migration Draft Policy Framework to harmoniously introduce a new visa regime for low-skilled temporary workers that aims to facilitate circular migration to South Africa in sectors such as mining, agriculture and domestic work. While the SADC Protocol on the Facilitation of Movement of Persons (2005) aims at eliminating obstacles to the movement of persons of the region, it does so through four stages of security-oriented, minimum-requirement policy harmonisation, with a strong emphasis on economic self-sufficiency and national interest of SADC member states (Last, unpublished). In reality, SADC is a long way from implementing even stage 1 of the Facilitation Protocol (Last, unpublished).

In terms of transnational migration protocols, bilateral agreements between South Africa and Zimbabwe have eased movement for a number of Zimbabwean labour migrants through special dispensation permits granted to a specific number (245 000) of persons. Those who did not qualify for or missed the opportunity to access the special permits remain dependent on short-term visitors’ visas. These visas do not account for the reality that many are labour migrants. For all forty of the women who were part of this study, there was a need to extend and maintain stay beyond the initial arrival period in order to enable them to seek employment to sustain their households and themselves. Without such legal provisions, their stay in South Africa beyond the highly restrictive visitors’ periods they are granted at the border is irregular.

## Impacts and limitations of the national policy framework regulating domestic work in South Africa

In terms of labour policy, South Africa has a strong regulatory framework for domestic work, which seeks to protect all domestic workers from abuse and labour exploitation (Ally, 2008). Post-apartheid, the South African state made extensive efforts to protect domestic workers by according them the right to organise into trade unions (Ally, 2008). This move was accompanied by a series of democratic labour policies that could potentially protect women employed in private households and formalise domestic work (Fish, 2006). However, in practice,

there remain several challenges that render these provisions inadequate in the lives of women employed as domestic workers. Furthermore, these protections do not extend to all domestic workers. These provisions do not adequately address the needs of migrant domestic workers in particular. There is a risk that if these issues are not addressed, other domestic workers will also remain subject to exploitation and economic precarity since all these policy gaps lower conditions across the sector.

South Africa has several “progressive” labour protections that do not take into account the realities of undocumented migrant domestic workers. These policies are progressive in the sense that they adhere to the ILO Domestic Workers Convention No. 189 of 2011, which South Africa ratified on 20 June 2013 (ILO, 2015). The Convention explicitly states that, “Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex” (Article 11) (ILO, 2015). Unfortunately, the South African Department of Labour has lacked capacity and resources to monitor and enforce the sanctions that accompany the protection measures, that is, to regulate compliance (Kiwanuka et al., 2014). Ensuring that employers comply with the minimum wage rate poses particular challenges when employment is conducted inside a private household. General challenges also noted by ILO in many countries across the globe are that employers are often not aware of their responsibilities, labour inspectorates are under-resourced, and often require permission from the householder or require judiciary authorisation to enter the home (ILO, 2015).

While South Africa’s own efforts should be applauded, there are several reasons why most of them are insignificant in the lives of migrant domestic workers. The National Labour Relations Act (1996) legalises domestic worker unionisation. However, it is challenging to organise all domestic workers. The unions interviewed in this study find that domestic workers resist participation and membership in unions owing to a fear of reprisal (from employers) that might follow their participation in a union. If the domestic workers are irregular migrants, this fear is exacerbated by their irregular documentation status. And migrant domestic workers are often not sure of whether or not they can legitimately join a union if their migration status is precarious.

The Basic Conditions of Employment Act (BCEA) No 75 of 1997 set legal minimum working conditions for all employees in South Africa, including working hours, overtime, leave, and contract termination. BCEA gives effect to the right to fair labour practices referred to in section 23(1) of the Constitution by establishing and making provision for the regulation of basic conditions of employment; and thereby to comply with the obligations of South Africa as a member state of the ILO. BCEA No 20 of 2013 was published and became effective on 1 September 2014. It is the first Act to formalise domestic labour as a protected sector within the legislative framework and includes a mandatory requirement of work contracts. However, it only covers full-time workers, which means that domestic workers employed as “chars” doing hourly or daily work for several employers do not qualify for BCEA coverage because their relationship with each employer is considered part-time in spite of the fact that for many workers these arrangements typically total well over a 50-hour working week (Fish, 2006). Migrant domestic workers may find themselves in this category, as they are not always tied to one employer since it is relatively easier to find part-time work. In our study, the majority of the women in live-out situations worked regularly for one or more employer, for periods ranging from 3 to 6 days a week. None of the domestic workers in our research had entered into written contractual agreements with their employers and in their experience of losing or leaving employment; either party had without notice initiated termination of work. Some participants said they had visited Zimbabwe only to find that on their return the employer had already hired a replacement. With the increased casualisation of the domestic work sector (Fish, 2006) characterised by little in

the way of formal contracts, employers can circumvent protection when they hire such workers on a part-time basis.

South Africa has also adopted Sectorial Determination 7: Domestic Worker Sector of BCEA (Amended in 2018), which outlines minimum wage levels, ordinary work hours and overtime hours, leave entitlements, limitations on night work and standby times, and requirements for daily and weekly rest periods etc. The determination governs the employment of domestic workers; which includes housekeepers, gardeners, nannies, domestic drivers. While the provision applies to the employment of all domestic workers in South Africa, its applicability to irregular migrant domestic workers is unclear. Such applicability has never been officially confirmed or commented on (Griffin, 2011). What has been officially stated is that its application applies to all domestic workers (including independent contractors and those employed by agencies), except domestic workers who work on farms or are covered by another sectoral determination or a bargaining council agreement. Zimbabwean domestic workers in our study left their jobs because of poor working conditions, which include long working hours, excessive task demands and harassment by the employers. Working hours are often equally unclear, particularly for live-in domestic workers.

Regulated by the Unemployment Insurance Act (No. 63 of 2001) and the Unemployment Insurance Contributions Act (No. 4 of 2002) (which provides for the imposition and collection of contributions for the benefit of the Unemployment Insurance Fund - UIF), the UIF is a mechanism that is intended to protect all domestic workers by providing for short-term financial assistance to workers when they become unemployed or unable to work because of illness, maternity or adoption leave. UIF applies to all employers and workers, including part-time and full-time domestic workers (housekeepers, gardeners, nannies, domestic drivers etc.). The Unemployment Insurance Act provides that the employer is responsible for ensuring that employees are registered with the UIF. If an employee is registered and their contributions have been paid, then that employee is able to claim from the fund. But it is difficult for the Department of Labour to determine if both parties are contributing to the fund. Moreover, it is unclear where irregular migrant domestic workers stand in terms of registering and claiming from the fund, as the Act is not specific. Moreover, most migrant domestic workers are either unaware of their rights or, without the necessary assurances, fear reprisal or deportation if they approach the Department of Labour to claim.

In principle irregular migrants are entitled to approach the Commission for Conciliation, Mediation and Arbitration (CCMA) – an independent dispute resolution body established in terms of the Labour Relations Act No 66 of 1995 that is primarily responsible for hearing labour related cases of unfair dismissal through conciliation. In 2008 the CCMA embraced under its ambit foreigners working illegally in South Africa, creating the institutional mechanisms for labour disputes and rights claiming in South Africa (Griffin, 2011). However, this provision has not been widely publicised (Griffin, 2011) and a lack of awareness contributes to marginalised groups like migrant domestic workers not accessing their rights to such legal recourse.

In conclusion, migrant domestic workers are vulnerable to abuse in the workplace. In our study Zimbabwean domestic workers raised a number of labour issues, including, poor salaries – sometimes-unpaid salaries, long working hours, and other abuse by employers. Domestic work is precarious due to a lack of job security and absence of service benefits, whilst the personal networks which migrant women rely on for material and other support are often strained. These strained relations maybe due to constrained household incomes, which are over-stretched by the need to meet living costs in the host space and send remittances back to Zimbabwe. As a result migrant women employed in domestic service are often forced to endure exploitative conditions in



employment due to the fear of being dismissed and replaced without notice which would result in them not only losing their income but also in situations of live-in work setups, losing a roof over their head. The domestic work sector as a whole is increasingly being characterised by lower labour standards owing to poor regulation.

## Recommendations for policy

### Establish an integrated regional approach that streamlines portability of rights<sup>5</sup>

Regionally, there is a need for a coherent, systematic and enabling pro-poor policy approach to the movement of people and goods for the economic benefit of all domestic workers. In the current regulatory regime, it is employers that are benefiting from the exploitation of domestic workers, which has the net effect of lowering conditions and standards across the entire sector. This policy brief recommends flexible, people-centred regional and continental policy and memoranda of understanding around the movement of persons and goods. The new visa regime for low-skilled temporary workers that aims to facilitate circular migration to South Africa through the Labour Migration Draft Policy Framework should address issues of portability of rights (social protection and benefits) for temporary contract workers.

The policy brief recommends that regional movement should be accompanied by protections of migrants through strict provisions and implementation of social portability of rights in order to enhance working conditions across the entire domestic work sector. This can be achieved by implementing and monitoring the SADC Portability of Accrued Social Security Benefits Draft Policy Framework (2016), which seeks to facilitate the development of policies and programs aimed at the progressive enhancement of the adequacy, efficiency and regional coordination of SADC Member States' social security systems. In order for such protections in law to result in better practice, stricter monitoring of compliance in national Ministries and Departments and a comprehensive framework of reporting on the state of enforcement of these regional protections in their countries is required.

The SADC Protocol on the Facilitation of Movement of Persons is currently a heavily securitised approach to migration that will indeed contribute to irregularisation and exploitation of low-skilled migrants in domestic work and across other sectors. Therefore, the South African government must leverage the African Union (AU) Free Movement of Persons Protocol (2018) to create no-visa and visa-on-arrival policies and, through bilateral, regional or continental arrangements, facilitate the portability of social security benefits to nationals of another Member State residing or established in that Member State. Lifting visa requirements can begin through extending bilateral agreements on special dispensation permits. Since bilateral agreements in the SADC region are mostly out-dated, South Africa should review bilateral agreements with neighbouring countries taking into account that these are relatively easier to negotiate and more flexible.

### Provide for “low-skilled” migrants to move long-term with a pathway towards permanency

South Africa's immigration policies currently make no provision for migrant domestic workers (and other “low-skilled” female migrants) to get work permits (Munakamwe and Jinnah, 2015). Moreover, the proposals in the White Paper on International Migration (2017) could negatively impact the rights and social conditions of

temporary low-skilled African migrants by codifying that they do not have the right to settle permanently (Carciotto, 2018). For the women in our study who are employed as domestic workers their ability to access legal residence permits that legitimises their stay has been limited by their status as low-skilled workers in a context in which the emphasis of the prevailing migration regime is on attracting and importing critical and scarce skills. This policy brief recognises that the accessibility of travel documents in Zimbabwe in conjunction with the lifting of visa requirements may have made travel to South Africa safer and easier for migrant women. The policy brief also recognise that innovative policies such as the Dispensation of Zimbabweans Project (DZP) (2009) (later the Zimbabwean Special Dispensation Permit (ZSP) of 2014 and Zimbabwean Exemption Permit (ZEP) of 2017) have improved competitiveness of Zimbabwean domestic workers in the job market. However, the periods of validity and number of beneficiaries are too stringent. Some failed to obtain the special dispensation permit because of bureaucratic lags or constraints in their personal circumstances<sup>6</sup>.

Therefore, the policy brief also encourages the South African government to extend existing permit provisions and to roll out similar programmes to enable the long-term documentation of irregular migrants from the rest of the continent. These permits should refrain from tying migrant workers to certain sectors and employers for a pre-defined period of time as this may limit the duration of stay and the right to change jobs. Lowering choice has the overall effect of subjecting all domestic workers to exploitative working conditions. These permits should provide a pathway towards permanency linked to the number of years of residency. The Labour Migration Draft Policy Framework should also take this recommendation into serious consideration.

## Offer equal labour protections to migrants

South Africa's immigration policy does not currently provide for low-skilled migrants to move on a more permanent basis. Most social assistance benefits in South Africa are accessed through South African citizenship or permanent residence (Deacon et al., 2015; Carciotto, 2018). In the absence of protections that cover permanent residents and with no end in sight to the current restrictive migration regime, South Africa must work towards treating all workers (including low-skilled, part-time, migrant, undocumented) equally under labour law, with a view to enhancing conditions and standards of work for everyone in the labour market. Implementation and monitoring of labour law must take these factors into account. First, that domestic work occurs in the private space where employers exert more power and employees take more risk by claiming protection. Second, workers with part-time contract arrangements with their employers often work more hours than standard full-time because they work for several employers. Last, there is uncertainty surrounding migrants' status in South Africa (especially domestic workers, Zimbabweans without a permit and Zimbabweans who are – for one reason or another – undocumented), which means that protection mechanisms cannot rely entirely on their reporting or claiming their rights. The lack of equal labour protection for migrants reduces their bargaining power, giving employers power and autonomy to violate labour laws pertaining to minimum working standards.

## Conclusion

The study that this brief is based on examined the migration industry that facilitates and constrains the migration of Zimbabwean women who enter domestic work in South Africa. Its findings suggest a complex picture of a migration that is well streamlined through individualised tactics and through thick social and informal networks.



But it is one that relies on irregular practices by individuals and that feeds corruption in official border controls. Without these arrangements and in the context of strict migration regimes much of the benefit of these migratory patterns would be lost.

The study also suggests that the poor oversight of labour conditions in the workplace despite the existence of sound regulation protecting domestic workers in South Africa adds a particular local dimension to the precarity of migrant domestic workers. However, brokers are involved in the tactics migrants employ to counter these restrictions. In this way they are involved in ameliorating precarity.

The Zimbabwean women interviewed in this study were women who had migrated to South Africa to seek employment and who found such employment in domestic work. By and large they did so by making their own plans, in the absence of a facilitative regulatory environment. These plans relied on highly networked and deeply socially embedded relations. The women's migration was facilitated by brokers as well as by a network of kin and non-kin social contacts. Their continued stay in South Africa has been made possible through similarly individualised tactics that tap into social networks and brokers. These are all necessary because the migration regime, despite its apparent leniency for Zimbabwean migrants, continues to exclude many and to render them irregular. There is a need to stabilise the mobility of these labour migrants through the implementation of a rational, facilitated migration regime.

This brief explores the negative impacts of the current national, regional and transnational migration regime and how this together with the limitations of the South Africa's national policy framework regulating domestic work in South Africa lead to the vulnerability and exploitation of migrant domestic workers. It provides a list of three key recommendations for the Department of Labour and Department Home Affairs to consider in the development of their upcoming Labour Migration Draft Policy Framework. It also provides recommendations to the implementation and monitoring of the SADC Protocol on the Facilitation of Movement of Persons (2005) and the SADC Portability of Accrued Social Security Benefits Draft Policy Framework (2016). These recommendations emphasise the need to establish an integrated regional approach that streamlines portability of rights, provide for "low-skilled" migrants to move long-term with a pathway towards permanency and offer equal labour protections to migrants.

The policy brief also shows that if these issues are not addressed, South Africa runs the risk of making other domestic workers remain subject to exploitation and economic precarity since these gaps may have the effect of lowering working conditions and standards across the sector. The policy brief concludes that these policy recommendations will allow the South African government and SADC to adequately address, not only the specific needs of migrant domestic workers, but also those of the entire domestic work sector where current legal provisions are generally inadequate.

The brief raises the complexities of a circulatory labour migration pattern that sustains thousands of migrant employees in South Africa and a thick network of support through individualised, informal practices. This raises a number of probing questions for advocacy, particularly drawing attention to the gaps in regulation that force women into irregular migration, which run the risk of drawing attention to and unwittingly restricting the well streamlined migration industry that has offered safe (albeit irregular and informal) movement of women, remittances and goods between Zimbabwe and South Africa over many years.

## Endnotes

1. The brief is based on research undertaken by Tanya Zack, Khangelani Moyo, Sarah Matshaka and Kudakwashe P Vanyoro as part of the Migrating out of Poverty Research Programme Consortium, with guidance from Tanya Zack, Loren Landau, Sarah Matshaka, Tamara Last (who offered some guidance on the legal aspects of the study) and Priya Deshingkar (who coordinated the project). This material has been funded by UK aid from the UK government. However, the views expressed do not necessarily reflect the UK government's official policies.
2. Those who are able to bribe their way through *malumes* "outsourced" by bus drivers might get as many as 30-60 days.
3. The white paper offers recommendation on policy and strategic interventions and will provide a policy framework that will lead a comprehensive review of immigration legislation. According to the Department of Home Affairs, policy that merely requires administrative action will be implemented immediately while significant changes will only be made once legislation has been amended. The process of amending the legislation has commenced and was expected to conclude in March 2019 when it will be submitted to Parliament for public consultation and approval.
4. Lack of legal documentation facilitating employment is also often not a barrier to entry for work in the menial and service sectors or the informal sector under which domestic work falls. These sectors are often not closely regulated therefore making entry less complicated than entry into other sectors.
5. This brief takes note of the fact that a legally binding instrument on portability is being drafted over the next few months and will be debated by SADC delegates at a general technical meeting in September, which will go before Ministers in 2020 if the draft is agreed on. These ongoing consultations are currently focused on access to social and portability of benefits for migrant workers in the mining and agriculture sector but there is a view that these will be extended to benefit other sectors like domestic work.
6. Only eight out of our sample of 40 had been able to successfully apply for and maintain access to the Zimbabwean special dispensation permits which allow them to reside and work in South Africa.

## References

- Ally, S. (2008) Domestic Worker Unionisation in Post-Apartheid South Africa: Demobilisation and Depoliticisation by the Democratic State, *Politikon*, 35:1, 1-21
- Carciotto, S. (2018) The regularization of Zimbabwean migrants: A case of permanent temporariness. Centre for Migration Studies. New York.
- Crush, J and Tevera, D. 2010. Exiting Zimbabwe in Zimbabwe's exodus: Crisis, migration, survival. Edited by J. Crush & D. Tevera. Kingston and Cape Town: Southern African Migration Programme (SAMP).
- Deacon, B. Olivier, M. and Beremauro, R. (2015) Social security and social protection of migrants in South Africa and SADC. MiWORC Report N° 9. Johannesburg: African Centre for Migration & Society, University of the Witwatersrand.
- Dodson, B. (2001) Discrimination by Default? Gender Concerns in South African Migration Policy, *Africa Today*, 48:3, 73-89.
- Fish, J.N. (2006) Engendering Democracy: Domestic Labour and Coalition-Building in South Africa, *Journal of Southern African Studies*, 32:1, 107-127.
- Griffin, L. (2011) Unravelling Rights: 'Illegal' Migrant Domestic Workers in South Africa, *South African Review of Sociology*, 42:2, 83-101.
- ILO (2015). Labour Inspection and Other Compliance Mechanisms in the Domestic Work Sector: Introductory Guide. ILO: Geneva.
- Kiwanuka, M., Jinnah, Z. and Hartman-Pickerill, B. (2015). Getting the House in Order: Foreign Migrant Workers in the Domestic Work Sector in South Africa. MiWORC Report No 10. African Centre for Migration & Society, University of the Witwatersrand: Johannesburg.
- Last, T. (unpublished). Contemporary approaches to migration in SADC and the applicable frameworks.
- Munakamwe, J. & Jinnah, Z (2015) *MiWORC Report N° 9. A bitter harvest: Migrant workers in the commercial agricultural sector in South Africa*. Johannesburg: African Centre for Migration & Society, University of the Witwatersrand.
- Sibanda, M., 2010. The urban and rural spaces: consequences of nature conservation and the rural to urban migration: a case of the Great Limpopo Transfrontier Conservation Area, Zimbabwe Sector. *Journal of Sociology and Social Anthropology*, 1(1-2), pp.23-32.
- Tshabalala, X. (2017) Hyenas of the Limpopo: The Social Politics of Undocumented Movement Across South Africa's Border With Zimbabwe. Linköping University: Linköping.



#### **African Centre for Migration & Society**

The ACMS is an independent, interdisciplinary and internationally engaged Africa-based centre of excellence for research and teaching that shapes global discourse on human mobility, development and social transformation. The ACMS is one of the continent's leading institutions for research, teaching and outreach

#### **African Centre for Migration & Society**

School of Social Sciences  
University of the Witwatersrand  
P.O. Box 76, Wits 2050, Johannesburg, South Africa  
Tel: +27 (0)11 717 4033 | Fax: +27 (0)11 717 4040

[info@migration.org.za](mailto:info@migration.org.za) | [www.migration.org.za](http://www.migration.org.za)